

REMARKS

Claims 1-69 are pending in the case. Each of claims 1-69 was rejected as follows:

- claims 3-7 as indefinite under 35 U.S.C. §112, ¶2 for claiming in the alternative;
- claims 1-69 as anticipated under 35 U.S.C. §102(e) by U.S. Patent Publication 2004/0073373 (“Wilson”).

Applicant traverses each of these rejections.

I. INFORMALITIES

The Office has not acknowledged Applicants’ claim to the earlier effective filing date of January 29, 2004, for PCTIUS04/02477, of which this application is a nationalization under 35 U.S.C. §371. Applicants presume from the lack of objection that the claim has been properly perfected and that they are entitled to the priority date of January 29, 2004. Applicants request notification should there be any error so that they have an opportunity to cure it.

The Office considered the references filed in the IDS on August 11, 2008.

The restriction/election requirement has been withdrawn.

The Office objected to claim 17, which objected has been cured by amendment. Applicant accordingly requests that the objection be withdrawn.

II. RESPONSE TO SUBSTANTIVE MATTERS

A. CLAIMS 3-7 ARE DEFINITE

The Office rejected claims 3-7 as indefinite under 35 U.S.C. §112, ¶2 for claiming in the alternative. The Office reasons that these claims further limit a limitation of claim 2 that is “optional” because it is claimed in the alternative. Applicants respectfully submit that this is incorrect.

Applicants have amended the claims to moot this issue. None of these amendments narrow the scope of the claims inasmuch as the claims now just identify which of the alternatives

listed in claim 2 are “further limited” in the respective claim. Furthermore, no new matter is added as the limitation for each amendment is clearly found in claim 2.

However, Applicants note that each of claims 3-7 (1) further limits the claim from which it depends, 35 U.S.C. §112, ¶1, and (2) incorporates the limitations of the claim from which it depends by operation of law, 35 U.S.C. §112, ¶4. Thus, each of claims 3-7 can be rewritten in the form of claim 2—from which they all depend—as follows, with the “further limitation underlined and accommodating deletions struck through:

3. The apparatus of claim 1, wherein the seismic survey object comprises one of ~~a seismic cable~~ a streamer, an ocean bottom cable, a seismic receiver, a steering device, and a seismic source.

4. The apparatus of claim 1, wherein the seismic survey object comprises one of a seismic cable including a sensor module, a steering device, or an inertial positioning device in which the inertial measurement unit is housed, a seismic receiver, a steering device, and a seismic source.

5. The apparatus of claim 1, wherein the seismic survey object comprises one of a seismic cable including a plurality of acoustic receivers, a seismic receiver, a steering device, and a seismic source.

6. The apparatus of claim 1, wherein the seismic survey object comprises one of a seismic cable, a seismic receiver, ~~a steering device~~ a Q-fin, a bird, and a seismic source.

7. The apparatus of claim 1, wherein the seismic survey object comprises one of a seismic cable, a seismic receiver, a steering device, ~~and a seismic source~~ an air gun, and a vibrator.

It can therefore be seen that the subject claims really just presents an “alternative claiming” structure that Applicants respectfully submit is no more “indefinite” than claim 2 from which they depend.

Still further, the fact that the Office can create some semantic scenario imparting some theoretical degree of ambiguity in the claims does not establish that the claims are indefinite. The question is whether one of ordinary skill in the art can ascertain the metes and bounds of the claim. One ordinarily skilled in the art will readily understand that claims 3-7 become operative

only if the respective survey object it “further limits” is the particular manifestation of the survey object. That is, nobody skilled in the art will be confused by claim 3 is if the “survey object” of claim 2 is a seismic source rather than a seismic cable.

B. CLAIMS 1-69 ARE NOVEL OVER WILSON

The Office rejected claims 1-69 as anticipated under 35 U.S.C. §102(e) by U.S. Patent Publication 2004/0073373 (“Wilson”). An anticipating reference, by definition, must disclose every limitation of the rejected claim in the same relationship to one another as set forth in the claim. M.P.E.P. §2131; *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990).

Each of the independent claims has been amended to recite “a short baseline acoustic system or an ultra short baseline acoustic system”. Support for this amendment is found in the application as published at ¶[0048], and so no new matter is added. The dependent claims incorporate this limitation by operation of law. 35 U.S.C. §112, ¶4. Wilson does not teach this limitation. Wilson therefore does not anticipate any of claims 1-69 as amended. M.P.E.P. §2131; *Bond*, 15 U.S.P.Q.2d (BNA) at 1567.

C. DECLARATION OF COMMON OBLIGATION TO ASSIGN AND/OR OWNERSHIP

Applicants submit herewith a declaration by Richard V. Wells establishing that the subject matter of U.S. Patent Publication 2004/0073373 (“Wilson”) and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Thus, Wilson is not prior art to the present claims under 35 U.S.C. §103.

III. CONCLUDING REMARKS

Applicants respectfully submit that the claims are in condition for allowance, and request that they be allowed to issue. The Examiner is invited to contact the undersigned attorney at (713) 934-4053 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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